

ORIGINAL
OPEN MEETING



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MEMORANDUM

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TO: THE COMMISSION

2007 JUL -6 A 10:59

FROM: Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: July 6, 2007

RE: RECOMMENDED OPINION AND ORDER REGARDING THE APPLICATION
OF ASHCREEK WATER COMPANY FOR A MORATORIUM ON NEW
CONNECTIONS (DOCKET NO. W-02494A-07-0286)

On May 11, 2007, Ashcreek Water Company ("Ashcreek" or "Company") filed an application, Docket No. W-02494A-07-0286, with the Arizona Corporation Commission ("Commission") seeking a moratorium on new connections to the Ashcreek Water System ("Ashcreek System").

Background

Ashcreek is a Class E regulated water utility that is currently serving 91 customers¹ near Thatcher in Graham County, Arizona, pursuant to a Certificate of Convenience and Necessity ("CC&N") granted by the Commission to the Company in Decision No. 55745, dated September 25, 1987. Prior to receiving its CC&N, the Company provided water to approximately 20 customers under the name Desert Rose Water System from at least 1975 without Commission authority. Ashcreek is owned by several members of the Smith family.

On February 21, 2001, Staff filed a complaint against Ashcreek. The complaint alleged among other things that Ashcreek had failed to comply with a previous Commission order by not timely installing meters for all customers; failing to properly read meters and maintain meter data; failing to file a required application for rate review; failing to keep books and records in accordance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts; and failing to file required proof of ownership of all wells.

On July 7, 2003, the Arizona Department of Environmental Quality ("ADEQ") issued a Notice of Violation on the Ashcreek System for plant deficiencies because the Company lacked sufficient storage to meet peak demands and minimum pressure requirements.

On August 13, 2003, the Commission issued Decision No. 66180 which authorized Staff to engage a qualified interim manager to operate and manage Ashcreek. Since May 3, 2004, Mr. Bevan Barney has been the Company's interim manager.

¹ All customers are served by 5/8- x 3/4-inch meters.

Arizona Corporation Commission
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On May 21, 2007, the Commission issued Decision No.69581 which authorized Ashcreek to implement new rates and charges and also authorized the Company to issue new debt to fund system improvements and system reliability in the following manner: by adding a storage tank; by constructing a transmission line so that water from the Company's two wells can be blended to resolve an arsenic problem; by looping its system; by installing valves that will enable the Company to flush its lines; and by constructing 1,420 feet of six inch main to replace old under-sized mains.

ADEQ has determined that the Ashcreek System is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.²

Ashcreek currently has no delinquent Commission compliance issues.³

The Utilities Division Consumer Services complaint database for the period from January 1, 2004 to current indicated there were no complaints filed against Ashcreek.⁴

Moratorium Request

In support of its request to implement a moratorium on new connections, Ashcreek refers to its inability to maintain pressure during periods of peak use. The Company also refers to its plan to address the Ashcreek System deficiencies by building new storage, test pumping the primary well and installing larger well transmission lines which will allow for a greater flow of water into the Ashcreek System. Unfortunately, the construction of these improvements will not be completed until the Fall of 2007, at the earliest, which is past the periods of peak use common in the summer months. Ashcreek indicated that customers are already experiencing brief periods of low pressure and how the Company presently has inquires for 63 additional connections. Ashcreek requests that the moratorium on new connections remain in effect through the summer period of peak usage and until construction of the improvements has been completed in the Fall of 2007.

Staff Recommendation

Staff recommends that the Commission approve a moratorium on new connections to the Ashcreek System. The Company lacks adequate capacity to serve its existing base of customers. Staff believes that adding additional customers during a period of peak usage and prior to completion of the Ashcreek System improvements will only deteriorate the level of service provided to existing customers. Staff further recommends that the moratorium remain in effect

² ADEQ Drinking Water Compliance Status Report, dated May 31, 2007.

³ Utilities Division Compliance report, dated June 1, 2007.

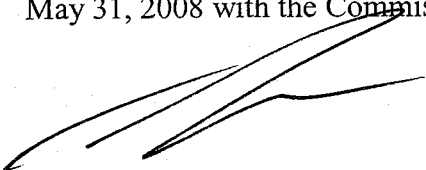

⁴ Consumer Services section memorandum, dated May 25, 2007.

THE COMMISSION

July 6, 2007

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until Ashcreek files a copy of the ADEQ Approval of Construction ("AOC") for the Ashcreek System facility improvements. Staff further recommends that the AOC be filed no later than May 31, 2008 with the Commission's Docket Control as a compliance item in this docket.

Ernest G. Johnson
Director
Utilities Division

EGJ:DWS:lhbm\RM

Originator: Del Smith

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MIKE GLEASON
3 Chairman
4 WILLIAM A. MUNDELL
5 Commissioner
6 JEFF HATCH-MILLER
7 Commissioner
8 KRISTIN K. MAYES
9 Commissioner
10 GARY PIERCE
11 Commissioner

12
13 IN THE MATTER OF THE APPLICATION)
14 OF ASHCREEK WATER COMPANY FOR)
15 A MORATORIUM ON NEW)
16 CONNECTIONS)
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18
19
20

DOCKET NO. W-02494A-07-0286
DECISION NO. _____

ORDER

21 Open Meeting
22 July 24 and 25, 2007
23 Phoenix, Arizona

24 **BY THE COMMISSION:**

25 On May 11, 2007, Ashcreek Water Company ("Ashcreek" or "Company") filed an
26 application, Docket No. W-02494A-07-0286, with the Arizona Corporation Commission
27 ("Commission") seeking a moratorium on new connections to the Ashcreek Water System
28 ("Ashcreek System").

* * * * * * * * *

29 Having considered the entire record herein and being fully advised in the premises, the
30 Commission finds, concludes, and orders that:

FINDINGS OF FACT

Background

31 1. Ashcreek is a Class E regulated water utility that is currently serving 91 customers¹
32 near Thatcher in Graham County, Arizona pursuant to a Certificate of Convenience and Necessity

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38 ¹ All customers are served by 5/8- x 3/4-inch meters.

1 ("CC&N") granted by the Commission to the Company in Decision No. 55745, dated
2 September 25, 1987. Prior to receiving its CC&N, the Company provided water to approximately
3 20 customers under the name Desert Rose Water System from at least 1975 without Commission
4 authority. Ashcreek is owned by several members of the Smith family.

5 2. On February 21, 2001, Staff filed a complaint against Ashcreek. The complaint
6 alleged among other things that Ashcreek had failed to comply with a previous Commission order
7 by not timely installing meters for all customers; failing to properly read meters and maintain
8 meter data; failing to file a required application for rate review; failing to keep books and records
9 in accordance with the National Association of Regulatory Utility Commissioners Uniform System
10 of Accounts; and failing to file required proof of ownership of all wells.

11 3. On July 7, 2003, the Arizona Department of Environmental Quality ("ADEQ")
12 issued a Notice of Violation on the Ashcreek System for plant deficiencies because the Company
13 lacked sufficient storage to meet peak demands and minimum pressure requirements.

14 4. On August 13, 2003, the Commission issued Decision No. 66180 which authorized
15 Staff to engage a qualified interim manager to operate and manage Ashcreek. Since May 3, 2004,
16 Mr. Bevan Barney has been the Company's interim manager.

17 5. On May 21, 2007, the Commission issued Decision No. 69581 which authorized
18 Ashcreek to implement new rates and charges and also authorized the Company to issue new debt
19 to fund system improvements and system reliability in the following manner: by adding a storage
20 tank; by constructing a transmission line so that water from the Company's two wells can be
21 blended to resolve an arsenic problem; by looping its system; by installing valves that will enable
22 the Company to flush its lines; and by constructing 1,420 feet of six inch main to replace old
23 under-sized mains.

24 6. ADEQ has determined that the Ashcreek System is currently delivering water that
25 meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.²

26 7. Ashcreek currently has no delinquent Commission compliance issues.³

27
28 ² ADEQ Drinking Water Compliance Status Report, dated May 31, 2007.

³ Utilities Division Compliance report, dated June 1, 2007.

1 8. The Utilities Division Consumer Services complaint database for the period from
2 January 1, 2004 to current indicated there were no complaints filed against Ashcreek.⁴

3 **Moratorium Request**

4 9. In support of its request to implement a moratorium on new connections, Ashcreek
5 refers to its inability to maintain pressure during periods of peak use. The Company also refers to
6 its plan to address the Ashcreek System deficiencies by building new storage, test pumping the
7 primary well and installing larger well transmission lines which will allow for a greater flow of
8 water into the Ashcreek System. Unfortunately, the construction of these improvements will not
9 be completed until the Fall of 2007, at the earliest, which is past the periods of peak use common
10 in the summer months. Ashcreek indicated that customers are already experiencing brief periods
11 of low pressure and how the Company presently has inquires for 63 additional connections.
12 Ashcreek requests that the moratorium on new connections remain in effect through the summer
13 period of peak usage and until construction of the improvements has been completed in the Fall of
14 2007.

15 **Staff Recommendation**

16 10. Staff has recommended that the Commission approve a moratorium on new
17 connections to the Ashcreek System. The Company lacks adequate capacity to serve its existing
18 base of customers. Staff believes that adding additional customers during a period of peak usage
19 and prior to completion of the Ashcreek System improvements will only deteriorate the level of
20 service provided to existing customers. Staff has further recommended that the moratorium
21 remain in effect until Ashcreek files a copy of the ADEQ Approval of Construction ("AOC") for
22 the Ashcreek System facility improvements. Staff has further recommended that the AOC be filed
23 no later than May 31, 2008 with the Commission's Docket Control as a compliance item in this
24 docket.

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⁴ Consumer Services section memorandum, dated May 25, 2007.

CONCLUSIONS OF LAW

1. The Company is a public water service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-250 and 40-252.

2. The Commission has jurisdiction over the Company and of the subject matter of the application.

3. Staff's recommendations, as set forth in Findings of Fact No. 10, are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application by Ashcreek Water Company for a moratorium on new connections to the Ashcreek System is hereby approved.

IT IS FURTHER ORDERED that the Ashcreek Water Company shall comply with each of the recommendations appearing in Findings of Fact No. 10.

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1 IT IS FURTHER ORDERED that the moratorium shall be lifted the month following the
2 submission of the ADEQ Approval of Construction.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**
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8 CHAIRMAN

COMMISSIONER

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11 COMMISSIONER

COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto, set my hand and caused the official seal of this
15 Commission to be affixed at the Capitol, in the City of
16 Phoenix, this _____ day of _____, 2007.

17
18 _____
19 BRIAN C. McNEIL
Executive Director

20 DISSENT: _____

21
22 DISSENT: _____

23 EGJ:DWS:lh\RM
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SERVICE LIST FOR: ASHCREEK WATER COMPANY
DOCKET NO. W-02494A-07-0286

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